

REMARKS

By the present amendments, claims 1-3, 6, 10, 16, 19, 21-22, 25 and 27-28 have been amended and claims 1-28 remain under consideration in the present application. No claim has at yet been allowed.

Claim 10 has been amended to clarify language and should now be proper with respect to antecedents. The reference to "format" in paragraph 1 of the Advisory Action, however, was not understood.

In response to Item 2 of the Official Action, applicant is aware of the obviousness-type double-patenting rejection and regrets any oversight or omission in dealing with that in the previous response. Applicant stands ready and willing to submit a Terminal Disclaimer, as needed, upon the indicated allowability of claims in this application and the provisionally indicated co-pending application Serial Nos. 10/294,111 and 10/294,287. Any further action at this time is not indicated and would be considered premature.

Applicant notes that the specification has again been objected to under 35 USC § 112, first paragraph, apparently as to definitions of adhesives. This rejection is again respectfully traversed and applicant offers certain additional clarifying remarks in this regard. Also, at page 5, continued

paragraph 7 of the Official Action, the Examiner indicates the view that "...the distinction between pressure sensitive adhesives and permanent adhesives is essentially interchangeable." Tack-free non-pressure sensitive adhesives and pressure sensitive adhesives, however, are dramatically different types and this distinction is important to the present invention. By way of further definition, applicant presents an explanatory table which presents in concise form facts well-known to those skilled in the art, i.e., that the relevant types of adhesives can be made in both pressure sensitive and non-pressure sensitive forms. Applicant's labels require a non-pressure sensitive form for the hinge and a pressure sensitive form for the release-reseal system. Applicant's labels, then, require two forms of adhesive. This is not a matter of proof, but one of explanation. Applicant also respectfully directs the Examiner's attention to his specification at page 2, lines 1-9, where an explanation of important drawbacks of pressure sensitive hinges, and so the need for two different adhesives in such labels is given. The table appears below::

Types of of Adhesives	Pressure Sensitive Adhesives of this Type	Non-Pressure Sensitive Adhesives of this Type (i.e., "glues")
Hot Melt Adhesives	Remain "tacky" in final state (e.g., duct tape).	Non-tacky or dry in final state (e.g., craft sticks).
Solvent-based Adhesives	Remain "tacky" in final state (e.g., electrical tape).	Non-tacky or dry in final state (e.g., model airplane glue).
Water-based Adhesives	Remain "tacky" in final state (e.g., POST-IT® brand notes, adhesive bandages and masking tape).	Non-tacky or dry in final state (e.g., Elmer's® brand glue).
UV-curable Adhesives	Remain "tacky" in final state.	Non-tacky or dry in final state (e.g., automobile construction).
EB-curable Adhesives	Remain "tacky" in final state.	Non-tacky or dry in final state (e.g., floor laminates).

As can be seen from the table, the various types of adhesives listed in the left-hand column can be made in either pressure sensitive or non-pressure sensitive forms. All of the pressure sensitive forms remain "tacky" in the final state, i.e., the manufactured product; whereas, the non-pressure sensitive adhesives become non-tacky or dry in the final state or in the finished label.

Stated in other words, pressure-sensitive adhesives are incapable, by their chemical properties, of being dry in a final state.

The ordinary meaning of the word "tacky" may be found, for example, in Merriam-Webster's Collegiate Dictionary, tenth edition, Springfield, Mass. (1993) where it is defined as "somewhat sticky to the touch (~ varnish), also characterized by tack: ADHESIVE".

With respect to these adhesives, a reference that is very well known to those skilled in the art, The Concise Encyclopedia of Polymer Science and Engineering (New York, 1990.), makes a clear distinction between non-pressure sensitive adhesives and pressure sensitive adhesives. At page 35, with respect to non-pressure sensitive adhesives, it states:

"Eventually, the adhesive must undergo a phase change, i.e., by cooling, solvent evaporation or reaction, to a solid in order for the joint to acquire the necessary strength to resist shearing forces."

By definition, and as referred to by applicant herein, the class of adhesives known as "pressure-sensitive" adhesives (PSA) is contrasted as an exception to other adhesives in the next sentence of the above-mentioned reference publication which reads:

"A notable exception is the category of pressure-sensitive adhesives, where no phase change occurs."
(Emphasis added)

This also describes the term "pressure sensitive" as used herein. These materials remain tacky (sticky). Adhesion may be modified (reduced) by detackifying overlayers, or by using low-

adhesion abutting surfaces, but the material does not change phases and solidify. Generally, bonds between layers made using pressure-sensitive adhesives can be pulled apart without damage to the layers whereas those made using non-pressure sensitive adhesives cannot. This is particularly true with respect to multi-ply or booklet paper labels.

Given the above, applicant submits that there is clearly a recognized and easily-ascertained distinction in the art between pressure sensitive adhesives and non-pressure sensitive adhesives. One can easily determine whether a material is "tacky" or not no matter what kind of adhesive it is simply by touch. Applicant's claims clearly require two separate and distinct types of adhesives, namely, a non-pressure sensitive adhesive for the hinge and a pressure sensitive adhesive for the release-reseal system in each of the label claims. These materials are readily available commercially and, it is believed, need no further explanation. The claims define available materials known to those skilled in the art, without the need for experimentation.

This distinction is present in the amended claims and is well supported in the specification. See, for example, page 3, lines 9-24 regarding adhesive "tack-free in the cured or final adhesive state". See also page 3, lines 3-8, and page 6, lines

12-25 regarding pressure sensitive adhesive as used in the release/reseal aspect. The term "non-pressure sensitive" in the claims is clearly supported by the above and also by implication for if the material is not "tacky" or "sticky", it is clearly "non-pressure sensitive". The use of two different types of adhesives does complicate the process of making the label but produces a heretofore unknown booklet label of far superior durability.

It is further believed unwarranted for the Examiner to continue to read the term "permanent adhesive material" into the present claims. This language is nowhere in the present claims; and the language that is in the claims provides a definition that is unmistakable. Thus, from the listed types of adhesives, one can select pressure sensitive adhesives for use where pressure sensitive adhesives are called for and non-pressure sensitive adhesives where non-pressure sensitive adhesives are required.

Based on the above and for other reasons of record, the applicant respectfully requests that the rejection of the claims under 35 USC § 112 be withdrawn.

The rejection of the claims under 35 USC § 102(e) or 35 USC § 103(a) based on Baum, Jr. et al '137 is also respectfully traversed. Please note that Baum, Jr. et al describe a "label

envelope" which is an overlamine encapsulation of joined first and second informational sheets. Only the overlamine reseals, not the two sheets themselves, i.e., the interior pamphlet itself does not reseal. Baum, Jr. et al describe what is entirely a pressure sensitive adhesive construction. Note that, for example, at column two, line 65-column three, line 4 where the reference implies detackifying ("dampening")-which necessarily implies that the adhesive was tacky and therefore was pressure sensitive. This detackifying, known to those skilled in the art, does not eliminate the adhesive's tackiness or somehow make it non-tacky, but merely reduces its tackiness; in all respects, it remains tacky albeit less so.

It is noteworthy that, furthermore, Baum, Jr. et al do not teach or suggest any requirement that hinges in booklet-type labels use non-pressure sensitive adhesives as opposed to release-reseal systems. As previously indicated, they simply suggest that the same type of adhesive can be used in both zones (adhesive 44). That teaches and suggests a construction that precludes the use of a non-pressure sensitive adhesive. The adhesive means 28 at column 3 of Baum, Jr. et al is used to attach the base sheet or the entire label to a surface and is not involved in the construction of the label booklet itself.

Applicant's booklet-type label is believed to be a significant improvement over the Baum, Jr. et al articles owing to the fact that the hinge must not, by design, be held together with an adhesive material that remains tacky. This is certainly not the same as the teaching that one can modify the relative tackiness of a material and use it for a hinge as suggested by Baum, Jr. for the adhesive 44. Applicant's invention, on the other hand, provides a booklet-type label of greatly improved durability due to the fact that a non-pressure sensitive adhesive is used for the hinge. Moreover, the required use of different adhesives makes the manufacturing process more complicated which indeed would also discourage such a construction.

Nowhere is there a teaching or suggestion in Baum, Jr. requiring two separate and distinct adhesives, i.e., pressure sensitive and non-pressure sensitive, which perform two correspondingly separate and distinct functions in the label (i.e., for a release-reseal system and for a hinge, respectively).

Further, rejections based on the Coward et al '973 and Hill et al '587 references, it is believed, should not stand, particularly in view of the clear scientific distinction between pressure sensitive adhesives and non-pressure sensitive

adhesives. Just because such terms are used incorrectly in the prior art does not mean that the present applicant is confused. If anything, the interpretations of the cited references mislead one into experimentation whereas applicant's distinction is clear.

In view of the above amendments, taken together with the remarks herein, applicant believes the present slate of claims contains allowable subject matter and should be in condition for allowance. Therefore, applicant respectfully requests that this paper be entered and considered and the claims allowed.

Respectfully submitted,

NIKOLAI & MERSEREAU, P.A.



C. G. Mersereau
Attorney for Applicant
Attorney Reg. No. 26,205
900 Second Avenue South
820 International Centre
Minneapolis, MN 55402
Telephone: (612) 339-7461